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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/570,028	03/01/2006	Reiko Moriya	127049	1105

25944 7590 04/15/2010
OLIFF & BERRIDGE, PLC
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EXAMINER

KIDWELL, MICHELE M

ART UNIT	PAPER NUMBER
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3761

NOTIFICATION DATE	DELIVERY MODE
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04/15/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

OfficeAction25944@oliff.com
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Office Action Summary	Application No. 10/570,028	Applicant(s) MORIYA ET AL.	
	Examiner Michele Kidwell	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 16 February 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 16, 2010 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sugiyama et al. (US 7,175,613) in view of JP 10-295723.

With reference to claim 1, Sugiyama et al. (hereinafter "Sugiyama") discloses an absorbent article (10) configured to be worn by a user, where the article has a front side corresponding to a front side of a body of the user when the article is worn by the user, and a rear side corresponding to a rear side of the body of the user when the article is worn by the user (figure 7), the article including:

a first sheet leak preventer (13) extending from the front side of the absorbent article to the rear side of the absorbent article, and having a front part disposed on the front side of the absorbent article and rear part disposed on the rear side of the absorbent article;

a second sheet leak preventer (16) disposed above an upper side of the first leak preventer and positioned over a rear part of the first leak preventer, where the second leak preventer does not substantially extend over a front part of the first leak preventer and;

an absorber (28) containing a super absorbent polymer (col. 11, lines 18 – 23) capable of absorbing a body fluid, and disposed above an upper side of the first preventer extending from the front part of the first leak preventer beneath the second leak preventer in at least one layer wherein the second leak preventer is closer to a skin of the user than the first leak preventer when the article is worn by the user as set forth in figure 8. The claimed hollow space between the absorber and the second leak preventer is shown in figures 1a – 1f, 2a – 2d and 8.

The difference between Sugiyama and claim 1 is the provision that the second leak preventer does not include any perforation.

JP 10-295723. (hereinafter '723) teaches a liquid impermeable second leak preventer (5) that does not include any perforation as set forth in figures 1 - 3.

It would have been obvious to one of ordinary skill in the art to substitute the second leak preventer of Sugiyama for the second leak preventer taught by '723 because the liquid impermeable second leak preventer taught by '723 provides a simple

and efficient mechanism for removing and disposing of soft stools as taught by '723 throughout the disclosure, see especially [0001 – 0011].

With reference to claims 2, 14 and 17, Sugiyama discloses an absorbent article in which a urine introduction part forming member (44) is bonded to a part of a lower surface of a front end of the second leak preventer as set forth in figure 2a.

As to claims 3, 15 and 18, Sugiyama discloses an absorbent article further including a urine/feces stopping member (44) in a front end or in a vicinity of the front end of the second leak preventer as claimed as set forth in figure 2a.

With reference to claim 4, Sugiyama discloses an absorbent article in which the absorber is separated (area 29) and provided on right and left sides in a front part of the first leak preventer as set forth in figure 7.

With respect to claim 5, Sugiyama discloses an absorbent article in which the absorber is separated (area 17) and provided on right and left sides in a rear part of the first leak preventer as set forth in figure 7.

As to claims 6 and 7, Sugiyama discloses an absorbent article in which a part or entire periphery of the first leak preventer rises upward and/or in which the right and left side walls of the first leak preventer are folded inward as set forth in figures 7 – 8.

As to claim 8, Sugiyama discloses an absorbent article which right and left side walls of the first leak preventer are formed into folded shape as set forth in figure 7.

Regarding claim 9, Sugiyama discloses an absorbent article in which the absorber is provided in each of at least two of two or more stepped-spaces defined by

the right and left side walls of the first leak preventer formed into folded shape as set forth in figure 8.

With respect to claim 10, Sugiyama discloses an absorbent article in which a part or entire periphery of the second leak preventer rises upward as set forth in figure 7.

As to claim 11, see the rejection of claim 1 and figure 7. The article of Sugiyama is fully capable of performing the recited function.

As to claims 13 and 16, see the rejection of claim 1.

Response to Arguments

Applicant's arguments filed February 16, 2010 have been fully considered but they are not persuasive. The applicant claims that Sugiyama fails to disclose or suggest the hollow space. The examiner disagrees. The hollow space is disclosed throughout the reference being shown in figures 1a – 1f, 2a – 2d and 8 as set forth on the rejection of claim 1. The applicant argues that Ando does not provide the hollow space, but the examiner has not relied on Ando for such teachings. The examiner maintains that the hollow space is taught by Sugiyama.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to 8 whose telephone number is 571-272-4935. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michele Kidwell/
Primary Examiner, Art Unit 3761